

# HUGHES • ELLZEY LLP

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June 8, 2011

Ms. Betsy Wright, CEO  
WCA Hospital  
c/o Mr. Mark E. Lewis  
COZEN O'CONNOR  
1221 McKinney Street, Suite 2900  
Houston, Texas 77010

**Via Certified Mail RRR**  
**#7011-0470-0000-5081-2332**

**Re: Request to Void NPDB Report.**  
***Barkat S. Hooda, M.D. v. W.C.A. Service Corporation, et al; (formerly) Civil***  
***Action No. 4:10-CV-05022; In the United States District Court for the***  
***Southern District of Texas (Houston Division).***  
**Report Number: 5500000064046116**

Dear Ms. Wright:

As you may know, this case has been transferred to the U.S. District Court for the Western District of New York, Buffalo Division. Before we move forward with what will undoubtedly become protracted litigation in New York, our client wishes to attempt to resolve the primary issue in this case – removal of the report WCA filed with the NPDB.

Please consider this letter our official request for you to void the report filed against Barkat S. Hooda, M.D. Specifically, Dr. Hooda contends:

1. The Report should not have been filed against him; and
2. The information contained in the Report is NOT a factually accurate reflection of the action taken and the reasons the action was taken.

In its complaint to the NPDB on 08/26/2010, WCA claims the following:

“INAPPROPRIATE REFUSAL TO TREAT (FA)”

“VOLUNTARY SURRENDER OF CLINICAL PRIVILEGE(S), WHILE UNDER, OR TO AVOID, INVESTIGATION RELATING TO PROFESSIONAL COMPETENCE OR CONDUCT (1635)”

and

**“PHYSICIAN REFUSED TO ATTEND A DELIVERY FOR A CRITICALLY ILL INFANT WHEN HE WAS THE RESPONSIBLE PHYSICIAN ON CALL.”**

The timeline of events and the available evidence strongly support Dr. Hooda's contention that the above assertions are false. First, there is direct evidence proving Dr. Hooda attended the June 2, 2010 delivery the report claims he failed to attend. The term “(FA)” means “failure to attend.” We obtained copies of Dr. Hooda's medical records from the day in question at WCA Hospital, proving he attended the delivery and made notations in the mother's chart. Although we assume this chart is readily available to you, we are willing to provide a copy of it for your convenience.

Second, Dr. Hooda never voluntarily surrendered his privileges at WCA while under, or to avoid, investigation. The purpose of filing an NPDB report of this kind is to show that the physician resigned to avoid potential revelation of facts tending to prove his or her incompetence. This was not the situation in this case because Dr. Hooda resigned well in advance of the event which allegedly formed the basis of the NPDB report.

WCA is well aware of the fact that Dr. Hooda announced his resignation long before the alleged investigation into the events of June 2, 2010 could have been initiated. Dr. Hooda accepted a new job with UTMB in Texas as an associate faculty professor on March 16, 2010 (*approximately two and a half months before the alleged underlying incident, and over five months before WCA filed the NPDB complaint against him*). On May 11, 2010, Dr. Hooda officially resigned from WCA (*approximately three weeks before the alleged underlying incident, and almost four months before WCA filed the NPDB complaint against him*). Therefore, it is clear Dr. Hooda did not voluntarily resign his privileges during an investigation, such that WCA would have been compelled by law to file a report on the same with the NPDB.

The evidence conclusively proves the falsity of the statements WCA made in its report to the NPDB. We believe formal discovery into these issues will only allow us an opportunity to gather additional evidentiary support. If WCA simply agrees to void the report, I am confident our client will view this as a major step toward resolving this entire dispute. At the very least, eliminating this issue will save all parties additional time and expense. But it is my sincere hope that common decency and interest in allowing a physician to pursue his career and passion will prevail over the personal differences between WCA and Dr. Hooda.

Therefore, on behalf of Barkat S. Hooda, M.D., **official request is made for WCA Hospital to immediately strike and void the NPDB complaint filed against him by WCA Hospital**. If we do not receive a response by June 24, 2011, we will assume your preference is to move forward with litigation in New York.

Please do not hesitate to have your attorneys contact me if you have any questions or would like to discuss these issues in further detail.

Very truly yours,

**HUGHES ELLZEY, LLP**

A handwritten signature in black ink, appearing to read "W. Craft Hughes". The signature is fluid and cursive, with the first name "W." followed by "Craft" and "Hughes" in a stylized script.

W. Craft Hughes

WCH/mlw